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MASSACHUSETTS COMMISSION

ON INDIAN AFFAIRS

1983

ANNUAL REPORT





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The Commonwealth of Massachusetts

Commission on Indian Affairs

John W. McCormack Building

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Boston, Mass. 02108

Telephone 617-727-6394 / 6966

CHAEAL S. DUKAKIS

ernor

Y S. ANTHONY

retary

HN A. PETERS

cutive Director

Michael S. Dukakis
Governor of the Commonwealth of Massachusetts
State House, Room 360
Boston, MA

Dear Governor Dukakis:

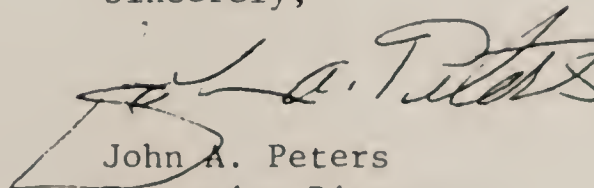
In accordance with the Massachusetts General Law, Chapter 7, Section 38, we are pleased to present to you the 1983 Annual Report for the Massachusetts Commission on Indian Affairs. The report details the Commission's efforts and accomplishments in complying with it's statutory mandate.

This year has been highlighted by the passage of two very important bills, Chapter 659 - "An Act Relative to Certain Skeletal Remains" which provides protection to unmarked Indian burial grounds, and Chapter 713 - "An Act Relative to the Interment of Certain Persons" which provides expenses for Indian remains which have been disturbed, forcing their relocation.

I am happy to report that since my directorship at the Commission on Indian Affairs, I have experienced gradual, but improved support and cooperation from the state legislature and many state agencies. This support has allowed for greater achievements in our efforts to assist the Native American constituency of the Commonwealth of Massachusetts.

We look forward to continued support from your administration.

Sincerely,


John A. Peters
Executive Director

JAP:bs

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THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Seventy-four

AN ACT ESTABLISHING THE COMMISSION ON INDIAN AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 7 of the General Laws is hereby amended by adding after section 37 the following section:-

Section 38. There shall be in the executive office of administration and finance a commission on Indian affairs, consisting of seven members who shall be appointed by the governor. All of the members shall be of American Indian descent and shall represent the major tribes of American Indian population located within the commonwealth. Each member shall serve for a term of three years.

Said commission shall meet at least four times annually, but may meet as often as it deems necessary for the proper conduct of its affairs, and shall elect from its membership a chairman and such other officers as may be required, each to serve for a term of one year.

Said commission shall investigate problems common to American Indians and persons of American Indian descent who are residents of the commonwealth. It shall assist tribal councils, Indian organizations and individuals in their relationship with agencies of state and local government, assist with social services, education, employment opportunities, health, housing problems, civil rights, legal aid, treaties, taking of a census of Indian residents, and any other rights or services concerning Indian residents of the commonwealth.

Said commission may make recommendations to the secretary of administration and finance concerning programs and policies that will best serve the interest of the Indian residents of the commonwealth and shall make an annual report of its activities to the said secretary and file a copy thereof with the clerks of the senate and house of representatives on or before the last Wednesday in January of each year.

House of Representatives, July 22, 1974.

Passed to be enacted, *Frank J. Sargent* Speaker.

In Senate, July 22, 1974.

Passed to be enacted, *Joseph J. D'Amico* Acting President.

August 2, 1974.

Approved,

Frank J. Sargent
Governor.

COMMISSION MEMBERS

The Massachusetts Commission on Indian Affairs consists of seven Native Americans appointed by the Governor to represent the Indian populous areas and groups. Each member serves a term of three years. They are as follows:

<u>NAME</u>	<u>REPRESENTING</u>	<u>TRIBAL AFFILIATION</u>
Hannah M. Averett, Chairp. Great Neck Road, P.O. Box 224 Mashpee, MA 02649 Tel # (617) 477-9362	Wampanoag-Mashpee	Mashpee-Wamp.
Gladys A. Widdiss, V-Chairp. 172 School Street Wayland, MA 01778 Tel # (617) 653-7691	Wampanoag-Gay Head	Gay Head-Wamp.
Edith Andrews 149 Clarendon Street North Dartmouth, MA 02747 Tel # (617) 994-4745	Bristol County	Gay Head-Wamp.
Dr. Helen Attaquin 74 East Grove Street Middleboro, MA 02346 Tel # (617) 947-1534	Plymouth County	Gay Head-Wamp.
Zara Ciscoe-Brough (Resigned 10/31/83) Hassanamisco Reservation Grafton, MA 01519	Nipmuck	Hassanamisco Nipmuck
Robert N. Clark 48 South Main Street Belchertown, MA 01007 Tel # (413) 323-6475	Balance of State	Gay Head-Wamp.
John S. Sapiel 229 Jones Road Falmouth, MA 02540 Tel # (617) 548-2593	Boston Indian Council	Penobscot

B U D G E T

The Commission on Indian Affairs is pleased with the authorization of one new position (Principal Clerk) in the fiscal year 1984 budget. However, to date, the position has not been released from the Department of Personnel Administration. It therefore may take several months before a new staff person is on board.

FISCAL YEAR 1984 BUDGET

(July 1, 1983 - June 30, 1984)

Salaries (3)	55,660
Travel Expenses	6,000
Office Expenses	3,585
Rentals	415
	<hr/>
	\$65,660

LEGISLATIVE BILLS

AN ACT RELATIVE TO CERTAIN SKELETAL REMAINS

In January a new draft (H1621) accompanied former House Bill 2379 and a hearing was set for February 2nd before the Committee on Commerce and Labor. The bill was reported out of Committee and developed into a new draft. After several meetings with Representative Bassett's aide and the state archaeologist for language changes, the new draft was accepted and reported favorable by the Committee. It was then referred to the Committee on House Ways and Means. Another draft was developed and presented to the Massachusetts Historical Commission for their support. After a few additional language changes it was accepted by MHC and also by the Committee and recommended that it ought to pass. In October the bill was ordered to Third Reading and another draft was substituted. At this time it was imperative to get our legislative supporters to push the bill through. It was referred to Senate Ways and Means and they recommended it ought to pass. With the help and support of Senators Doane, Atkins, Bolling, and Backman; and Representative Bassett and former Representative Bickford; and Val Talmage, State Archaeologist; the bill was enacted and laid before the Governor. On December 20, 1983 Governor Dukakis signed the bill into law. ATTACHMENT #1

AN ACT PROVIDING EXPENSES FOR THE REBURIAL OF UNEARTHED INDIAN REMAINS

Former House Bill 2378 accompanied a new draft (H5828) and was referred to the Committee on Human Services and Elderly Affairs. A hearing was set for April 4, 1983. The bill was reported favorable by the Committee on House Ways and Means which recommended that it ought to pass. The bill was then

ordered to Third Reading and the title was changed. At that time we sought the support of our legislators to help push the bill through. It was then referred to Senate Ways and Means and they recommended it ought to pass with an amendment. With the help and support of the same individuals, it was enacted and laid before the Governor. On December 29, 1983 Governor Dukakis signed the bill into law. ATTACHMENT #2

AN ACT TO PREVENT THE BREAKUP OF AMERICAN INDIAN FAMILIES AND TO ESTABLISH STANDARDS FOR REMOVING AND PLACING INDIAN CHILDREN AWAY FROM THEIR FAMILIES

The hearing for this bill was held on March 24, 1983. The Commission testified in support of the bill. It was reported out of Committee favorable and went to Senate Ways and Means. The bill sat in SWM for several months and, with the assistance of Senator Olver, we set up a meeting with the Senate to pass the bill on to Third Reading. After Third Reading the bill went to House Ways and Means and died there in December. We will refile it in January 1984. ATTACHMENT #3

ESTABLISHMENT OF INDIAN HOUSING AUTHORITIES

House Bill 1842, filed by Representative Cahir, was referred to the Committee on Housing and Urban Development. A hearing was scheduled for April 4, 1983 at which time the Commission on Indian Affairs and the League of Women Voters testified. It was reported by Committee that it should accompany a new draft. A new draft was developed with the help of Representative Cahir but was rejected in the Senate. It will be refiled next session. ATTACHMENT #4

NEW BILLS

Two new bills were filed in September of this year. They are:

(1) An Act Increasing the Number of Scholarships for Native Americans. This bill is asking to increase the number of scholarship waivers provided for in Section 1 of Chapter 707 of the Acts of 1981, from 30 to 60. Since the inception of the scholarship program, we have received an overwhelming number of scholarship applications. We quickly realized that this number of waivers (30) was not sufficient to meet the demands of our students. These students have displayed great interest in the program and we find that we must hold their applications because the thirty waivers have already been awarded. A large percentage of the thirty waivers are taken for 2 to 4 years at a time depending on the type of programs the students are enrolled in. There are, usually, only 4 to 6 slots open each year. The program has provided a great incentive to our students and we certainly want this to continue. ATTACHMENT #5

(2) An Act Relative to Scholarships for Native Americans. This bill is specifically requesting that a sufficient amount of funds be appropriated to Section 1, Chapter 707 of the Acts of 1981 (the scholarship program) to cover room, board, books, and other related expenses. We have found that many students, some with excellent academic records, are unable to meet financial obligations and consequently have to drop out of college. This is indeed unfortunate so we are asking for additional financial aid to keep our Indian students in college. ATTACHMENT #6

I N F O R M A T I O N , A S S I S T A N C E , & R E F E R R A L S

INFORMATION

The Commission also acts as a central information center for those who are seeking information on up-coming Native American events, names of Native American resource persons, addresses for tribal councils & native american organizations, etc. It also serves in the capacity of receiving information. During the past year, we received 1210 calls from the general public either seeking or giving information.

REFERRALS AND ASSISTANCE RENDERED TO NATIVE AMERICANS

- 7 families received information and referral regarding foster care placement.
- 12 individuals received assistance in applying for scholarships under the Indian Scholarship Program. 30 received scholarships. 58 received information on the program.
- 29 individuals were referred to public apartment buildings in efforts to secure housing.
- 8 individuals were referred to attorneys for legal assistance.
- 75 individuals were referred to public and private agencies for employment.
- 6 individuals were referred for medical assistance.
- 12 individuals were referred to the Department of Public Welfare for financial assistance.

L O C A L, R E G I O N A L, &
N A T I O N A L O R G A N I Z A T I O N S

The Commission continued to work closely with the following organizations and agencies in efforts to provide further assistance to our constituents.

COMMUNITY TRAINING & RESOURCE CENTER

INTER-TRIBAL ORGANIZATIONS IN THE COMMONWEALTH

TRIBAL COUNCILS IN THE COMMONWEALTH

MASS. BOARD OF REGENTS OF HIGHER EDUCATION

MASS. COMMISSION AGAINST DISCRIMINATION

MASS. DEPARTMENT OF PERSONNEL ADMINISTRATION

MASS. DEPARTMENT OF SOCIAL SERVICES

MASS. HISTORICAL COMMISSION - STATE ARCHAEOLOGIST

MASS. INTERNSHIP PROGRAM

MASS. STATE OFFICE OF AFFIRMATIVE ACTION

STATE UNIVERSITIES, COLLEGES, & REGIONAL COMMUNITY COLLEGES

NEW ENGLAND INDIAN TASK FORCE

GOVERNOR'S INTERSTATE INDIAN COUNCIL

OTHER INVOLVEMENTS & ACTIVITIES

EVENTS SPONSORED BY THE COMMISSION

The Massachusetts Commission on Indian Affairs sponsored (3) events this year. On August 9th, a series of workshops were held to enlighten our Native American constituency to some of the resources available on the state level and to keep them abreast of some of the activities of the office. ATTACHMENT #7

October 12th was celebrated as Indian Awareness Day at the State House. The purpose of this gathering was to bring our constituents together with our elected and appointed officials and begin educating them on issues relative to our heritage, culture, and the true history of the "Native American".

On December 1st, a second workshop was held as part of our quarterly up-date. ATTACHMENT #8

FISCAL YEAR 85' BUDGET REQUEST

Fiscal Year 85' budget hearing was held on October 12, 1983. Commissioner Averett, John Peters, and Gkisedtanamoogk testified in favor of increasing our budget for the coming fiscal year. Testimony of Commissioner Averett and Mr. Peters is attached. ATTACHMENTS #9 & #10

The following statement will give you an idea of some of the hardships that have existed within the Commission since its inception because of lack of adequate funds. The statement supports an increase in the fiscal year 85' budget request for the amount of \$116,000.

Statement

In 1974 the Commonwealth took a major significant step to actively pursue and resolve a much needed positive and comprehensive approach to existing

Statement (Cont.)

problems facing the Native People and the Commonwealth, in the creation of the Commission on Indian Affairs. However, the legislature failed to further this important initiative by not providing funds for the Commission to fulfill its required mandate. Since then, the inadequate means have been the greatest problem implicating the Commonwealth, for this very issue has obstructed the Commission's potential capability to fully perform its commitment to its, and the Commonwealth's constituent Native population.

Although working under extreme hardship, the Commission has proven itself by demonstrating an admiring resourcefulness in fulfilling several important and critical areas of Native concern, much without help of, or commitment from the various agencies of the Commonwealth. In addition, the Commission has formally represented the Commonwealth at regional and national conventions. Why has the Commonwealth taken so long to provide adequate funding for us? In actively pursuing a workable and meaningful resolve for the plight of Native People here, adequate funding must be provided for the mandated objectives to be carried out. Anything less than our request of \$116,000 for this fiscal year is incomprehensible, and obstructs the much needed stability of Native viability. Present level funding (\$65,660) currently recommended by EOCD is totally inappropriate. The funding requested by the Commission represents the very least and basic means to successfully carry out its present objectives and programs for the coming fiscal year. But, as well, this request is by no means adequate nor reflective of the Commonwealth's publically-stated commitment to the Native population. Futuristic levels of funding must be realistic and practical. The Commonwealth, in its desire for positive and efficient use of funds to solve problems and providing positive interface with Native People, their governments, and organizations, must ser-

Statement (Cont.)

iously consider the obvious need for provisions to expand the Commission's funding level to that of a Department/Secretariat level. That is what it must take for the Commission to be able to fully comply with its mandate and, for the Commonwealth to honor its commitment to the Native People.

The Commonwealth has yet to fulfill its legislative initiative if current level funding continues unabated. Despite the apparent drawbacks to increasing budgetary considerations for the Commission to at least \$116,000 in a time when America is facing economic difficulties, it is important to consider the Commission's request keeping in mind that an increase is necessary so as not to obstruct the ability to comply with the law.

It is without doubt that the Native People of this Commonwealth, and indeed, throughout the hemisphere, possess a unique character; have separate and distinct problems; and have a claim that no other population in the United States can claim. Governor Dukakis is quoted in a June 28, 1978 press release from his office to say: "The Commission will be of the utmost importance for the Native American Indians of the Commonwealth. The Indians have pressing problems that are separate and distinct from those of other minorities, and I am confident the Commission will be able to arrive at some viable solutions." It is for this reason the Commission was established. Now, in order to address these unique problems, the Commission must have adequate staff and funds. Without this, the Commission is destined to fail its' Native American constituency.

MASSACHUSETTS INTERNSHIP PROGRAM

During the fall semester, Melissa Spiel, a student from Brandeis University, was placed in our office. Her primary responsibility was researching treaties relevant to the aboriginal hunting and fishing rights of Native Americans.

The treaties she submitted were instrumental in the defense cases of several Mashpee constituents who were arrested for fishing violations. Her internship lasted from September to December 1983.

We were also fortunate to have on board Kenneth Attocknie, a student from Harvard Graduate School who complimented the efforts of the Indian Scholarship Committee. Kenneth developed a questionnaire for the Indian scholarship recipients which was designed to determine the major areas of need of the Indian students so that remedies could be developed to help students in the coming year.

In other areas, Kenneth researched treaties that recognized the aboriginal hunting and fishing rights of Native Americans, and he researched information on Grafton land transactions. Kenneth's internship was spread over a period of two semesters, Fall 1983 to Spring 1984.

INDIAN CERTIFICATION

Attached is an up-dated Indian Certification Form which presently contains sections for both maternal and paternal information. Initially the form was developed to aid state and private agencies in identifying individuals who claimed Native American ancestry on job applications and civil service exams for the purpose of receiving priority placement in employment as a 'minority'.

The form has also been very useful to us in our efforts to maintain a census of the number of Native Americans residing in the Commonwealth. The only way the form is certified is if documentation from the individual's tribe is attached stating that such individual is a member of that specific tribe. In essence, if the individual cannot provide the Commission with either a letter, band card, or tribal roll number from his prospective tribe; a birth or death certificate of a parent or grandparent that state Indian, red, or the name of the tribe; the applicant will not be certified as a bona fide Native American through our office. This process has enabled us to eliminate many individuals who claim "Native American" for the sole purpose of obtaining employment and has helped us protect employment opportunities for bona fide Native Americans. ATTACHMENT #11

R E P O R T S

F R O M

C O M M I S S I O N E R S

1983

ROBERT N. CLARK
COMMISSIONER ON INDIAN AFFAIRS
WESTERN MASSACHUSETTS

1. Participated in an "Open Meeting" at the John W. McCormack Building on August 9, 1983. I presented a workshop on "Employment and Unemployment" with Rick Murphy, Director of the State Office of Affirmative Action. I also presented information regarding my efforts in the movement to change the racist state seal & motto of Massachusetts.
2. Participated in a radio talk show on WTTT on September 6th. I discussed the need for and limitations on education among Native Americans at the University of Massachusetts. Also, the need for cultural exposure in Western Massachusetts and cultural identity among Native Americans in the area.
3. Participated in the First Annual Inter-Tribal Pow-Wow at the University of Massachusetts - Amherst, on which I had worked all year long.
4. Participated in "Indian Awareness Day" at the State House on October 12th.
5. I continued to push for legislation to investigate and revise the state seal & motto of Massachusetts with support from State Representative Byron Rushing.
6. Assisted Native American students in recruitment, referral, and retention in their efforts to take advantage of the Commissions' Native American Indian Scholarship Program.

R E P O R T

F R O M

I N D I A N S C H O L A R S H I P C O M M I T T E E



The Commonwealth of Massachusetts

Commission on Indian Affairs

John W. McCormack Building

One Ashburton Place - Rm. 610

Boston, Mass. 02108

Telephone 617-727-6394 / 6966

Michael S. Dukakis

Governor

Ray S. Anthony

Secretary

John A. Peters

Executive Director

January 29, 1985

John A. Peters, Executive Director
Commission on Indian Affairs
One Ashburton Place, Room 610
Boston, MA. 02108

Dear John:

The Evaluation Committee for the Massachusetts Native American Scholarship Program herewith submits to your office for review and analysis this report of its activities for the 1983-84 academic year.

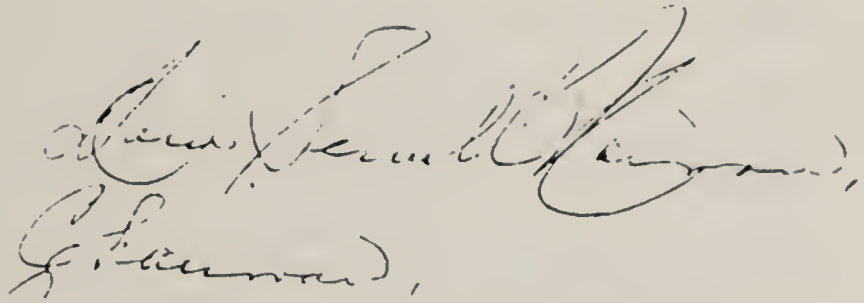
Membership representation during the 1983-84 year continued to consist of Annie Johnson, Russell Peters, Paula Gonsalves and I, representing Boston Indian Council, Mashpee, Gay Head and the Commission on Indian Affairs. Please note that the Nipmuc vacancy which occurred during 1982-83 was never refilled. The Committee, therefore, moved forward without a Nipmuc representative.

Abiding by its previously established strategies of application review and evaluation, the Committee in 1983-84 approved thirty-one (31) applications, exceeding its quota of thirty (30). The Committee, in its letter of August, 1983 to Janet Robinson, registered its concern over the limited allocation of state-approved scholarships and requested opportunities to discuss program expansion. One month later (September 27, 1983) an appendix to the first list had to be forwarded to Janet Robinson informing her of the deletion of three students on the original list and the addition of one other. In the final analysis, the number of students approved for the academic year 1983-84 was twenty-nine (29).

During the school year, the list of students actually attending university programs had dwindled to twenty-six (26). Some were lost to attrition and others, once again, were compelled to drop out because of the heavy financial

burden associated with study beyond those covered by the scholarship. The intent of the Committee is to seek additional funding for approved, needy students.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Doris S. Norman", followed by a comma.

Doris S. Norman, Chairman
Massachusetts Indian Scholarship
Committee

DSN:ch

z.c.

Committee Members: Paula Gonsalves, Annie Johnson, and Russell Peters

Commissioners: Edith Andrews, Helen Attaquin, Hannah Averett, Robert Clark,
Sam Spiel, Lucyann Swenson, and Gladys Widdiss

THE COMMONWEALTH OF MASSACHUSETTS

ADVANCE COPY

1983

ACTS AND RESOLVES

MICHAEL JOSEPH CONNOLLY, SECRETARY OF STATE

Chap. 659. AN ACT RELATIVE TO CERTAIN SKELETAL REMAINS.Be it enacted, etc., as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by inserting after section 38 the following section:-

Section 38A. Upon the receipt of the commission of notice under section six C of chapter thirty-eight that a site evaluation will be made to determine if skeletal remains are American Indian, the commission may designate a representative to be present when said site evaluation is made. If the state archaeologist and commission determine that said remains are American Indian, the owner of the land whereon the remains were discovered, the state archaeologist, the commission and other interested parties shall determine whether prudent and feasible alternatives exist to avoid, minimize or mitigate harm to the Indian burial site. If it is not prudent and feasible to preserve the remains in the original Indian burial site then the state archaeologist shall excavate and recover the remains under the supervision of the commission on Indian affairs. The commission and state archaeologist shall then consult to determine how the remains shall be disposed.

The final plan or agreement, which shall be in writing, may include provisions for preservation in situ; or the conducting of additional scientific and archaeological research and investigation with the approval of the commission on Indian affairs, or the immediate reinterment of the remains or with the consent of the site's owner, or the execution of a preservation restriction pursuant to section thirty-two of chapter one hundred and eighty-four. If it is determined that the remains are to be reinterred it shall be the responsibility of the commission on Indian affairs to conduct the reinterment.

The state archaeologist and commission shall consult to determine whether a skeletal analysis shall be made; said analysis must be completed within one year of the date of approval. If more than one year is required to conduct said analysis, the commission and state archaeologist shall consult to determine whether the one year may be extended. If they fail to agree on whether the skeletal analysis shall be extended for more than one year, they shall each designate three qualified persons who shall meet and make a recommendation to the commission on Indian affairs on whether a skeletal analysis of the remains shall be made. The commission shall make the final decision on whether a skeletal analysis of the remains shall be conducted for longer than one year. It will be the responsibility of the commission on Indian affairs to reinter the remains when the skeletal analysis is completed.

SECTION 2. Paragraph (2) of section 26A of chapter 9 of the General Laws is hereby amended by adding the following sentence:-

In the event that the site being investigated is an American Indian burial site, the survey and investigation shall be conducted in conjunction with the commission on Indian affairs.

SECTION 3. Said section 26A of said chapter 9 is hereby further amended by adding after paragraph (4) the following three paragraphs:-

(5) Notify the commission on Indian affairs, established pursuant to the provisions of section thirty-eight of chapter seven, the discovery of and existence of an information pertaining to all American Indian burial sites in the commonwealth. Records of such sites shall not be made available to the public.

(6) Conduct, within a reasonable time, site evaluations, including limited subsurface testing, in accordance with generally accepted scientific and archaeological standards, of unmarked, human burial and skeletal remains suspected of being one hundred years old or more upon receiving notification pursuant to section six B of chapter thirty-eight, to determine the nature and extent of the site, and the cultural or biological character of the site and remains.

(7) Arrange for the disposition of non-native, human remains, suspected of being one hundred years old or more after conducting a site evaluation pursuant to paragraph six of section twenty-six A. The state archaeologist shall consult with the site's owner and other interested persons to determine whether prudent and feasible alternatives exist to avoid, minimize or mitigate harm to the burial site. The final plan or agreement which shall be in writing, may include provisions for preservation in situ; the conducting of additional scientific and archaeological research and investigation; and, with the consent of the site's owner, the execution of a preservation restriction pursuant to section thirty-two of chapter one hundred and eighty-four. If no prudent and feasible alternative is agreed to, the state archaeologist or his or her designee may excavate the site and recover the remains in accordance with generally accepted scientific and archaeological standards. The state archaeologist shall dispose of recovered remains and related materials by depositing the remains with a curatorial facility.

SECTION 4. Section twenty-seven C of chapter 9 of the General Laws is hereby amended by adding the following paragraph:-

Any person, corporation, agency or authority of the commonwealth or any of its political subdivisions who shall discover unmarked human burial or skeletal remains suspected of being one hundred years of more pursuant to section six C of chapter thirty-eight, shall immediately cease any activity, including but not limited to, construction and agricultural activity, which would deface, alter, destroy or otherwise impair the integrity of the site until such time as the state archaeologist has completed

a site evaluation pursuant to paragraph six of section twenty-six A of chapter nine of the General Laws and until disposition of the remains has been agreed upon pursuant to either section thirty-eight A of chapter seven or pursuant to paragraph seven of section twenty-six A, of chapter nine.

SECTION 5. Chapter 38 of the General Laws is hereby further amended by inserting after section 6A the following two sections:-

Section 6B. It shall be the duty of any person in the commonwealth who discovers unmarked human skeletal remains or who knowingly causes to disturb said remains through construction or agricultural activity, to immediately notify the medical examiner of the district of the county wherein the human skeletal remains are located. The medical examiner shall, pursuant to section six, conduct an inquiry to determine whether the remains are suspected of being one hundred years old or more, in which case he shall immediately notify the state archaeologist.

Section 6C. If, after making inquiry pursuant to section six, the medical examiner determines that skeletal remains are suspected of being one hundred years old or more, he shall notify the state archaeologist who shall determine if the skeletal remains are American Indian.

If the remains are deemed likely to be American Indian, the state archaeologist shall forthwith notify the commission on Indian affairs that a site evaluation will be made to determine if the place where said remains were found is an Indian burial site.

SECTION 6. Section 17 of chapter 114 of the General Laws is hereby amended by adding the following sentence:-

"Burial place", as referred to in this section, shall include unmarked burial grounds known or suspected to contain the remains of one or more American Indian.

Approved December 20, 1983.

THE COMMONWEALTH OF MASSACHUSETTS

ADVANCE COPY

1983

ACTS AND RESOLVES

MICHAEL JOSEPH CONNOLLY, SECRETARY OF STATE

Chap. 713. RELATIVE TO THE INTERMENT OF CERTAIN
PERSONS.

Be it enacted etc., as follows:

Section 38 of chapter 7 of the General Laws, as most recently amended by chapter 697 of the acts of 1974, is hereby further amended by adding the following paragraph: -

Said commission shall provide for the burial expenses, up to three hundred dollars, for the remains of any person whose previously unknown grave has been disturbed, forcing its relocation, and whose identity has been determined by the state archaeologist to be that of an American Indian.

Approved December 29, 1983.

[Similar Matter Filed During Past Session —
See Senate No. 737 of 1983]

SENATE No. 793

By Mr. Backman, a petition (accompanied by bill, Senate, No. 793) of Jack H. Backman, Doris Bunte and A. Joseph DeNucci for legislation to prevent the breakup of American Indian families and to establish standards for removing and placing Indian children away from their families. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT TO PREVENT THE BREAKUP OF AMERICAN INDIAN FAMILIES,
AND TO ESTABLISH STANDARDS FOR REMOVING AND PLACING INDIAN
CHILDREN AWAY FROM THEIR FAMILIES.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by inserting after
2 Chapter 119 the following chapter: —

3 CHAPTER 119A

4 INDIAN CHILD WELFARE ACT

5 An Act to Prevent the Breakup of American Indian Fam-
6 ilies, and to Establish Standards for Removing and Placing
7 Indian Children Away from their Families.

8 *Section 1. PURPOSE.* Special relationships exist between
9 the Commonwealth of Massachusetts and the Indians of the
10 region. These relationships require recognition and redress of
11 child welfare problems involving Indian children. This Act
12 sets standards governing state action threatening termination
13 of parental rights or removal of an Indian child from the fam-
14 ily. A child's right to sound health and normal physical, men-
15 tal, spiritual, moral development (as defined in § 1, ch. 119
16 M.G.L.) includes a right to cultural heritage. Interpretations
17 of this Act shall be made in a spirit protecting the cultural
18 heritage of American Indians.

19 *Section 2. DEFINITIONS.*

20 A. "Adoptive placement" means permanent placement of an
21 Indian child for adoption, including any action resulting in a
22 final decree of adoption;

23 B. "child custody proceeding" means and includes foster care
24 placement, termination of parental rights, preadoptive and
25 adoptive placement;

26 C. "department" means Department of Social Services;

27 D. "extended family member" shall be defined by law or cus-
28 tom of the Indian child's tribe or, in the absence of such law
29 or custom, shall be a person who has the following relationship
30 to the Indian child: grandparent, aunt or uncle, brother or
31 sister, brother-in-law or sister-in-law, niece or nephew, first
32 or second cousin, or step parent;

33 E. "foster care placement" means any action removing an
34 Indian child from its parent or custodian for temporary place-
35 ment in a foster home or institution or the home of a guardian
36 or conservator where the parent or custodian cannot have the
37 child returned upon demand but where parental rights have
38 not been terminated;

39 F. "Indian" means any individual who is a member or de-
40 scendant of a member of a North American tribe, band, or
41 other organized group of native people who are indigenous to
42 the continental United States or who otherwise have a special
43 relationship with the United States or a state through treaty,
44 agreement, or some other form of recognition. This includes
45 any individual who claims to be an Indian and who is regarded
46 as such by the Indian community in which he or she lives or by
47 the Indian community of which he or she claims to be part.
48 This definition also includes Alaskan Natives;

49 G. "Indian child" means any unmarried Indian under age
50 eighteen;

51 H. "Indian child's tribe" means

52 i) the Indian tribe in which an Indian child has membership
53 or eligibility for membership, or

54 ii) where an Indian child is a member of or eligible for mem-
55 bership in more than one tribe, the Indian tribe with which
56 the Indian child has more significant contacts;

57 I. "Indian custodian" means any person who has legal cus-
58 tody of an Indian child under tribal law or custom or under
59 state law or to whom the parent has transferred temporary
60 physical care, custody and control;

61 J. "Indian organization" means any group, association, part-

62 nership, corporation, or other legal entity owned or controlled
63 by Indians, or with an Indian majority membership;

64 K. "Indian tribe" means any North American tribe, band, or
65 other organized group of native people indigenous to the con-
66 tinental United States or who otherwise have a special rela-
67 tionship with the United States or a state;

68 L. "parent" means any biological parent of an Indian child
69 or any person who has lawfully adopted an Indian child, in-
70 cluding adoptions under tribal law or custom. It does not in-
71 clude the unwed father where paternity has not been acknowl-
72 edged or established;

73 M. "preadoptive placement" means temporary placement of
74 an Indian child in a foster home or institution after the termi-
75 nation of parental rights, but prior to or in lieu of adoptive
76 placement;

77 N. "termination of parental rights" means any action re-
78 sulting in termination of the parent-child relationship.

79 Section 3. In any child custody proceeding involving an In-
80 dian child residing or domiciled outside a tribal reservation,
81 the state court having jurisdiction shall proceed in accordance
82 with the provisions of this Act.

83 Section 4. INVOLUNTARY STATE COURT PROCEED-
84 ING. In any involuntary state court child custody proceeding
85 for foster care placement or termination of parental rights
86 where the court knows or has reason to know that the action
87 involves an Indian child, a court shall ensure that notice is
88 given, and that active efforts, and removal and placement pro-
89 cedures are followed.

90 1. Notice. A party instituting child custody proceedings
91 shall notify a child's parent(s) or custodian, and a child's tribe
92 of the pending action. Notice shall:

- 93 i) be sent by registered mail with return receipt requested;
94 ii) inform the recipient of rights specified in this Act;
95 iii) be written in language the sender knows the recipient
96 understands.

97 A court may not hold any proceeding under this section un-
98 til fifteen days after the parent or custodian receives notice. A
99 court must hold a proceeding within thirty days after the
100 parent or custodian receives notice. If a child's parent, cus-

101 todian, or tribe requests additional time to prepare for a pro-
102 ceeding under this section, the court shall grant up to twenty
103 additional days for preparation. If a party instituting child
104 custody proceedings is unable to identify or locate an Indian
105 child's parent, custodian, or tribe, such party shall request
106 assistance from an Indian organization in order to provide
107 the required notice.

108 2. *Active Efforts*. Upon satisfaction of notice requirements,
109 a party instituting child custody proceedings and the court
110 shall make active efforts to prevent the breakup of an Indian
111 family. The party and the court may receive from Indian or-
112 ganizations recommendations about appropriate available fam-
113 ily support services. Family support services may include, but
114 are not limited to, community or government programs for
115 child care, homemaker assistance, counselling, rehabilitation,
116 or education. Where appropriate, the court may direct the
117 party instituting a proceeding to assist in establishing a pro-
118 gram to keep the family together. When support services con-
119 tinue for an extended time, the court may request monthly
120 progress investigations by an appropriate Indian organization.
121 Upon finding a stable family situation, the court may termi-
122 nate the monthly investigations.

123 3. *Removing or Placing an Indian Child*. After the "active
124 efforts" stage begins, a court shall wait a reasonable time, at
125 least one month, before holding any other proceeding seeking
126 a child's removal or placement. Proceedings may resume only
127 when the party instituting the action satisfies the court by
128 clear and convincing evidence that active efforts to keep the
129 family together will not succeed. In any proceeding under
130 this section, the court shall consider evidence of the prevailing
131 social and cultural conditions, customs, and traditions of the
132 Indian child's tribe and/or community. If the court determines
133 that active efforts have failed, it may:

134 i) order foster care placement only if clear and convincing
135 evidence establishes that continued custody by parent(s) or
136 custodian will likely result in a child's serious emotional or
137 physical damage; or

138 ii) order termination of parental rights only if evidence be-
139 yond a reasonable doubt establishes that continued custody by

140 parent(s) or custodian will likely result in a child's serious
141 emotional or physical damage.

142 *Section 5. VOLUNTARY PLACEMENT OR TERMINA-*
143 *TION RIGHTS.*

144 1. *Consent.* Where a parent or custodian voluntarily con-
145 sents to foster care placement or termination of parental
146 rights, such consent shall not be valid unless executed in writ-
147 ing and recorded by a judge in a court of competent jurisdic-
148 tion. The presiding judge shall explain in detail to the con-
149 senting party the terms and consequences of consent. The pre-
150 siding judge must certify in writing that:

151 i) the explanation was given as required;

152 ii) the explanation was given in or interpreted into a lan-
153 guage understood by the consenting party;

154 iii) the explanation was fully understood by the consenting
155 party.

156 Before a parent or custodian may consent to foster care
157 placement or termination of parental rights, the child must
158 be at least ten days old.

159 2. *Withdrawal of Consent.*

160 A. Any parent or Indian custodian may withdraw consent
161 at any time following a voluntary foster care placement or
162 voluntary termination of parental rights, and upon such with-
163 drawal the court shall execute the child's return to the pa-
164 rent(s) or custodian.

165 B. At any time before the court enters a final decree in a
166 voluntary termination or adoption proceeding, when a parent
167 or Indian custodian for any reason withdraws consent, the
168 court shall stop the proceedings and return the child.

169 C. After any court enters a final adoption decree, a parent
170 or custodian may withdraw consent and petition the court to
171 vacate the decree. If the court finds that fraud or duress or
172 other inappropriate or unlawful means were used to obtain
173 consent, it shall vacate its decree and return the child. Where
174 an adoption has been successfully in effect for at least two
175 years, a court may determine that the adoption may not be
176 invalidated under this provision.

177 *Section 6. PLACEMENT.*

178 A. The following order of preference governs any adoptive

179 placement of an Indian child:

- 180 1. placement with an extended family member;
- 181 2. placement with other members of the child's tribe;
- 182 3. placement with other Indian families;
- 183 4. placement with whoever the court finds satisfactory.

184 In any adoptive placement proceeding, an Indian organiza-
185 tion may submit to the court a report of available placements
186 together with any recommendations. The standards to be ap-
187 plied in determining a child's placement under the above order
188 of preference shall be the prevailing social and cultural stand-
189 ards in the Indian community with which the child's family
190 resides or maintains ties.

191 B. When a child will enter foster care or preadoptive place-
192 ment, the court shall ensure placement in the least restrictive
193 setting. The court shall ensure that a setting most nearly ap-
194 proximates a family environment, is located as close as pos-
195 sible to the child's family home, and meets all of the child's
196 special needs. The following order of preference governs any
197 foster care or preadoptive placement of an Indian child:

- 198 1. placement with an extended family member;
- 199 2. placement in a foster home licensed, approved, or specified
200 by a child's tribe;
- 201 3. placement in an Indian foster home licensed or approved
202 by an authorized non-Indian licensing authority;
- 203 4. placement in an institution for children with a program
204 meeting the child's needs, and approved by an Indian tribe or
205 operated by an Indian organization.

206 In any foster care or preadoptive placement proceeding, an
207 Indian organization may submit to the court a report of avail-
208 able placements together with any recommendations made in
209 consideration of preference standards.

210 C. In a placement under this section, if a child's tribe by
211 resolution establishes a different order of preference than those
212 established in this section, the court or agency effecting place-
213 ment shall follow the tribe's order.

214 D. In effecting placement, the court or agency shall con-
215 sider preferences of the child, the child's parent(s), or the
216 child's custodian.

217 E. In applying the preferences, the court or agency shall

218 give weight to a consenting party's desire for anonymity.

219 F. *Returning Custody to Parent*. Whenever a court vacates
220 a final adoption decree of an Indian child, or the adoptive pa-
221 rent(s) voluntarily consent to terminate parental rights, a
222 parent or prior custodian may petition for return of custody.
223 Unless a proceeding conducted subject to a section of this Act
224 shows that return violates the child's best interests, the court
225 shall grant the petition.

226 G. Except when an Indian child returns to the party hav-
227 ing custody before initial placement, whenever further place-
228 ment requires removing the child from a foster care home or
229 institution, the court or agency ordering further placement
230 shall follow the placement provisions of this section.

231 H. When an Indian, at least eighteen years old, a subject of
232 adoptive placement, requests information about tribal affilia-
233 tion, the court entering the final adoption decree shall give to
234 the individual information relevant to affiliation and any rights
235 flowing from tribal membership.

236 I. Improper custody exists when any petitioner in an Indian
237 child custody proceeding, without authorization or contrary to
238 the provisions of this Act, removes a child from custody of the
239 parent or Indian custodian or retains custody after a visit or
240 other temporary relinquishment of custody. In any case of im-
241 proper custody, the court shall return the child to the par-
242 ent(s) or custodian.

243 Section 7 *EMERGENCY REMOVAL OR PLACEMENT*.
244 Notwithstanding the provisions of this Act, in order to pre-
245 vent imminent physical damage to an Indian child, an appro-
246 priate authority of the Commonwealth may order emergency
247 removal or placement of an Indian child. The involved authori-
248 ty shall immediately terminate the emergency removal or
249 placement when the threat of imminent physical danger sub-
250 sides. As soon as possible after the emergency ends, the au-
251 thority shall:

252 (i) initiate child custody proceedings, subject to the pro-
253 visions of this Act; or

254 ii) return the child to the parent(s) or custodian.

255 Section 8. In any removal, placement, or termination pro-

ceeding under this Act where the court determines indigency, the parent(s) or custodian shall have the right to court-appointed counsel.

Section 9. All parties to a proceeding under this Act shall have the right to examine any document filed with the court which may bear on the resolution of the case.

Section 10. An Indian child, parent, custodian, Indian tribe, or Indian organization may petition any court of competent jurisdiction to invalidate a decree ordering placement or termination of parental rights for a violation of provisions of this Act.

Section 11. Any state authority involved in placing Indian children away from their families shall maintain a record of each adoptive, foster care, or preadoptive placement of an Indian child. Upon request, parties shall make their records available to each other. These records shall evidence efforts to comply with the placement preferences as outlined in Section 6 of this Act. If at any time a child's tribe requests inspection of these records, the recording organization shall make them available.

Section 12. INDIAN CHILD WELFARE ADVISORY BOARD. There is hereby established an Indian Child Welfare Advisory Board, to be composed of five members appointed by the Governor of Massachusetts. Members of the Indian Child Welfare Advisory Board shall be nominated one each by the following organizations: Gayhead Wampanoag Tribal Council; Mashpee Wampanoag Tribal Council; Nipmuc Tribal Council; the state's designated liaison with resident members of the Passamaquoddy, Penobscot, Maliseet, and Mic Mac tribes, with whom the state has entered into treaties and other agreements; and the Massachusetts Commission on Indian Affairs. Members shall be appointed to serve a term of three years. The Indian Child Welfare Advisory Board shall:

- i) report to the Commissioner of the Department of Social Services;
- ii) monitor implementation of this Act;
- iii) make recommendations concerning Indian child welfare and other matters relevant to this Act and its purposes;

294 iv) review regulations of the Department of Social Services
295 relevant to this Act and its purposes, and make recommenda-
296 tions concerning them;

297 v) make recommendations on policy affecting Indian chil-
298 dren on both state and regional levels;

299 vi) make recommendations to both the Commissioner of
300 the Department of Social Services and the General Court of
301 the Commonwealth on impacting federal policy and securing
302 federal assistance to further the purposes of this Act.

303 An Indian Child Welfare Advisory Board shall be appointed
304 not more than three months after the effective date of this
305 Act. The Indian Child Welfare Advisory Board shall meet at
306 least four times annually.

307 *Section 13.* Within ninety days of this Act's enactment, the
308 Department of Social Services shall formulate written regula-
309 tions including but not limited to the following information:

310 i) assignment of responsibility within the department to
311 fulfill relevant notice requirements of this Act;

312 ii) a policy statement explicating the department's role in
313 upholding the purposes of this Act;

314 iii) standards formalizing the department's internal pro-
315 cedures designed to assure compliance with applicable pro-
316 visions of this Act. Within ten days of formulation, the de-
317 partment of social services shall send a copy of these regula-
318 tions, by registered mail with return receipt requested, to
319 state courts with jurisdiction over proceedings covered in this
320 Act. Upon request, the department shall make these regula-
321 tions available to Indian organizations.

322 *Section 14. SEVERABILITY.* If any provision or clause of
323 this chapter or application thereof to any person or circum-
324 stances is held invalid, such invalidity shall not affect other
325 provisions or applications of this chapter which can be given
326 effect without the invalid provision or application, and to this
327 end the provisions of this chapter are declared to be severable.

HOUSE No. 1842

By Mr. Cahir of Bourne (by request), petition of John A. Peters relative to the establishment of Indian housing authorities. Housing and Urban Development.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT TO ESTABLISH INDIAN HOUSING AUTHORITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 121B of the General Laws is hereby
- 2 amended by adding thereto the following new Section 3B: —
- 3 *Section 3B.* There is hereby created, in and for the Nipmuc,
- 4 Mashpee, and Gay Head Wampanoag Indian tribes, a public body,
- 5 corporate and politic, to be known as the "Housing Authority" of
- 6 each said Indian tribe, which shall have and exercise all necessary
- 7 legal powers to carry out low income housing projects for Indians;
- 8 provided, that no such Indian Housing Authority shall transact
- 9 any business nor exercise its powers hereunder until or unless the
- 10 Tribal Council of the respective tribe, by proper resolution,
- 11 declares that there is a need for an authority to function therein.
- 12 For purposes of this section, "Indians" means members of the
- 13 above-mentioned tribes and includes members of the MicMac,
- 14 Maliseet, Passamaquoddy, Penobscot, Wampanoag tribes, and
- 15 any other tribe, band, group or community of Indians who are
- 16 wards of any state government, and members of tribes who are
- 17 federally-recognized. In the event that existing Indian organiza-
- 18 tions, recognized by the Massachusetts Commission on Indian
- 19 Affairs, are unable to certify whether or not an individual is "Indi-
- 20 an" for purposes of receiving Indian housing assistance, the Mas-
- 21 sachusetts Commission on Indian Affairs shall, upon request of
- 22 such individual, carry out any necessary investigation and certify
- 23 whether or not such individual is "Indian".
- 24 Each said housing authority shall be subject to and operate as

25 provided in the statutes and regulations of the United States appli-
26 cable to Indian Housing Authorities.

27 Except as otherwise provided in this section, but only to the
28 extent consistent with the statutes and regulations of the United
29 States applicable to Indian Housing Authorities, each said Indian
30 Housing Authority shall possess all rights, powers, functions, and
31 duties provided by this Chapter for local housing authorities, and
32 each said Indian tribe shall possess all rights, powers, functions and
33 duties with respect to said Indian Housing Authorities, as are
34 provided by this Chapter for municipalities with respect to local
35 housing authorities, and may require periodic reports from the
36 respective Housing Authorities.

37 All powers of appointment and removal of members of such
38 Indian Housing Authorities shall be exclusively exercised by the
39 respective tribal councils.

40 Neither the Commonwealth nor any Indian tribe or tribal coun-
41 cil shall be liable for any debts, obligations or liabilities of any
42 Indian Housing Authority; provided, that the Commonwealth or
43 any tribe may assume such liabilities under the same circumstances
44 and for the same purposes as are provided by this Chapter for such
45 assumption of liabilities by the Commonwealth and by municipali-
46 ties with respect to local housing authorities.

47 The area of operations of the housing authority of the Nipmuc
48 tribe shall include, but not be limited to, the Hassanamisco Nip-
49 muc Reservation; the area of operations of the housing authority
50 of the Mashpee tribe shall include, but not be limited to, the Fall
51 River-Freetown Wampanoag Reservation; the area of operations
52 of the housing authority of the Gay Head Wampanoag tribe shall
53 include, but not be limited to, the Fall River-Freetown Wampa-
54 noag Reservation; but in no event shall such Indian Housing
55 Authorities exercise eminent domain powers outside of the
56 Hassanamisco-Nipmuc Reservation or the Fall River-Freetown
57 Wampanoag Reservation.

58 The operation of any Indian Housing Authority in any locality
59 shall not affect or diminish the right or power of any other duly
60 constituted housing authority to operate in such locality as author-
61 ized by this Chapter.

62 The Governor is designated as agent of the State to apply for
63 funds or other aid, co-operate, and enter into contracts and agree-

64 ments with the Federal Government, any Indian Housing Author-
65 ity, or any other appropriate State or local agency relating to the
66 provision of necessary services to Indian housing projects to be
67 located within Indian reservations.

68 Within 180 days from the date of enactment of this Act, the
69 department, in consultation with the Massachusetts Commission
70 on Indian Affairs, shall promulgate rules and regulations govern-
71 ing the relationship between local housing authorities, Indian
72 Housing Authorities and other state and local agencies with poten-
73 tially conflicting or overlapping functions and responsibilities, and
74 such other rules and regulations as the department determines
75 necessary for the operation and management of an Indian Housing
76 Authority.

1 SECTION 2. If any provision or clause of this Act or applica-
2 tion thereof to any person or circumstances is held invalid, such
3 invalidity shall not affect other provisions or applications of the
4 Act which can be given effect without the invalid provision or
5 application, and to this end the provisions of this Act are declared
6 to be severable.

The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-FOUR

AN ACT

INCREASING THE NUMBER OF SCHOLARSHIPS FOR NATIVE AMERICANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows

SECTION 1. Section 7H of chapter 69 of the General Laws as added by section 1 of chapter 707 of the acts of 1981 is hereby amended by striking out in line 1 the word "thirty" and inserting in place thereof the word sixty.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-FOUR

AN ACT RELATIVE TO SCHOLARSHIPS FOR NATIVE AMERICANS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows.

SECTION 1. SECTION 7H OF CHAPTER 69 OF THE GENERAL LAWS AS ADDED BY SECTION 1 OF CHAPTER 707 OF THE ACTS OF 1981, IS HEREBY AMENDED BY ADDING AFTER THE WORD "SCHOLARSHIPS" IN LINE 2, THE FOLLOWING: INCLUDING SUFFICIENT AMOUNTS TO COVER ROOM, BOARD, BOOKS, AND OTHER RELATED EXPENSES

AND FURTHER AMENDED BY ADDING AT THE END OF THE NEXT TO LAST SENTENCE OF THIS SECTION, THE FOLLOWING: INCLUDING SUFFICIENT AMOUNTS TO COVER ROOM, BOARD, BOOKS, AND OTHER RELATED EXPENSES.



The Commonwealth of Massachusetts

Commission on Indian Affairs

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MICHAEL S. DUKAKIS

Governor

JOSEPH S. ANTHONY

Secretary

JOHN A. PETERS

Executive Director

OPEN MEETING AND WORKSHOP SERIES

TUESDAY, AUGUST 9, 1983

A meeting was held on the 21st floor of the J.W. McCormack Building. Over 50 people were in attendance and they included representatives from the Nipmuc Indian Council - (Massanamisco); Boston Indian Council; Mashpee Wampanoag Indian Tribal Council; ... Coastal Schaghticoke Association; Nipmuc Indian Council - (Chaubunagungamaug); ... Indian Council; and the R. I. Indian Commission.

Indian Affairs Commissioners, Resource Persons, and workshop topics were as follow:

EDUCATION

Resource Person - Russell M. Peters, Indian Scholarship Committee, (MCIA)

HUMAN SERVICES

Commissioner: John S. Sapiel

Resource Person; Barbara Namias, Director, Health & Community Services (BIC)

HUNTING & FISHING

Commissioner: Hannah M. Averett

Resource Person: Walter E. Bickford, Commissioner, Dept. of Fisheries, Wildlife, & Recreational Vehicles

EMPLOYMENT

Resource Person: Rick Murphy, Director, State Office of Affirmative Action

Resource Person: Robert N. Clark, Student, U-Mass, Amherst

ALCOHOLISM

Commissioner: Dr. Helen Attaquin

Resource Person: June Cooper, Director, Community Training & Resource Center

INDIAN BURIAL SITES

Commissioner: Edith Andrews

Resource Person: Val Talmage, State Archeologist, Mass Historical Commission

INDIAN SERVICES

Commissioner Sapiel introduced several persons in the audience from the Boston Indian Council. He explained that BIC is one of the biggest resource centers in New England.

Barbara Namias gave a brief overview of the operation of the BIC and its budget. She listed a few of their programs and detailed their purposes.

1. Project Bread
2. Indian Family Support Program
3. Tecumseh House
4. Elder Services

They hope to open a health facility in the near future. They have a doctor and registered nurse on board, 10 hours a week.

There was a question and answer period.

HUNTING & FISHING

Commissioner Averett informed everyone that the first legislative bill to protect the original rights of Native Americans to hunt & fish was filed in 1977 and has been submitted throughout the years until it was put into the form of a Resolution last year and is recognized by the state of Massachusetts.

He read the Resolution aloud and when completed emphasized that it is for the sustenance of your family only, not for commercial fishing. She then introduced Mr. Bickford.

Mr. Bickford indicated his support of the Resolution and added that he would support something even stronger. He said he is not an Indian lawyer and does not know if a federal law would supersede this Resolution, but as far as he is concerned he supports the issue of Native Americans having the right to hunt & fish without paying for licenses. He informed us that he tried to get a stronger Resolution passed this year, but it failed. He brought up the case of Derrick Mills who was arrested in Mashpee for fishing. He wants to know who the lawyer is on the case and would like to work with him on this issue.

There was a question and answer period.

EMPLOYMENT

Jack Murphy gave an overview of the responsibilities of the State Office of Affirmative Action.

1. to set affirmative action policy at the state level
2. to oversee the implementation of affirmative action policy of 11 executive offices
3. to oversee the implementation of affirmative action policy of 99 state agencies

Since the Dukakis Administration is committed to affirmative action and community action, Jack feels this is the time to straighten a lot of things out within state government.

He briefly stated that when he came to the State Office of Affirmative Action in March of this year, there were no records of Native Americans in state government. He knows that there are some but feels that Native Americans have not taken advantage of this opportunity and doesn't know why. He would like the Native Americans who are interested in state jobs to develop resumes (in an official format) and send them to the Governor's Personnel Office.

Commissioner Averett opened the meeting at 1:15 P.M. by asking Slow Turtle to say a prayer. He read the notice of this meeting and then asked Russell Peters to begin with the workshop activities starting with Education.

EDUCATION

Peters gave an overview of the Indian Scholarship Program which comes under the auspices of the Mass. Commission on Indian Affairs, and informed everyone of the requirements in order to be considered for a tuition fee waiver. He then gave a brief history of how the program was developed and the type of support that was necessary from the Mass. Legislature in order to get the bill passed.

He listed several purposes of the Committee.

1. to monitor the program and make sure the financial aid offices honor our program and find ways to help our students in the system.
2. to evaluate applications and make sure students have all necessary information attached to it (i.e. copy of high school diploma or GED certificate, test scores, letters of recommendation, etc.)
3. to make recommendations to the Board of Regents of Higher Education

Present Committee members are:

Doris Norman, Chairperson, (MCIA)
 Russell Peters, Mashpee
 Paula Gonsalves, Gay Head
 Annie Johnson, Boston Indian Council

In this program, he finds the following problems with students:

1. Academic. Students want to go to college but do not meet the requirements of the institution. They are not academically prepared but want to be college graduates.
2. Financial. Students have no funds for room & board, and other related expenses. This makes it difficult on the student because he-she is unable to concentrate on his-her studies, etc.

Peters concluded his presentation by announcing that recommendations for tuition fee waivers for the fall semester will be going to the Board of Regents on Friday. Those students who will receive a waiver will be notified by the Board of Regents through the issuance of a voucher. Prof. Doris Norman who came in unexpectedly had only one comment to add to Mr. Peters presentation about the program. Her greatest concern is trying to motivate students. She asked the audience to help with this by referring anyone they know to the Commission to fill out applications.

There was a question and answer period.

the new Governor is entitled to bring on 5,000 new people. He would like to see Native Americans get a piece of this. Mr. Murphy also wants us to know that the state has \$300 million for individual consultants, and the Westin Hotel in Copley Square is state property.

He left the following information:

1. List of minorities in the Dukakis Administration
2. Executive Order of the State Office of Affirmative Action
3. Workforce Analysis of state employees hired between the months of January 1983 and June 1983
4. Draft Annual Report

In closing, Mr. Murphy reiterated that resume's be sent to the Governor's Personnel Office and suggested that constituent groups set up meetings with the Governor through Marti Alfaro who is very helpful.

Robert Clark picked up on the other phase of Education. He feels that there is other employment outside of state government. He would like people to send resume's to the Mass. Commission on Indian Affairs Office as well as to the Governor's Personnel Office. He said it is important that those here today pass this information on to others. He informed us that the Affirmative Action Office at U-Mass Amherst has committed themselves to hiring 4) Native Americans. He would like people who are interested in working there to send resume's out to the college.

ALCOHOLISM

Commissioner Attaquin's opening remarks on alcoholism were that during the period of World War I alcoholism was considered a behavioral problem. During World War II it was noted as a disease. Now, in the 1980's it is classified as a bio-chemical problem. Alcoholism has always been a problem to Native Americans and we all know that there are a number of factors involved. She turned the workshop over to June Cooper.

Ms. Cooper gave an overview of the formation of Community Training & Resource Center. Their primary objective is to turn the system around that says it is designed to help everyone in the Commonwealth with alcoholism.

CTRC meets with community based organizations and shows them how they can make their program more culturally oriented. CTRC provides training to various groups and civic organizations. One of their largest studies were on "Critical Uses of Alcohol". She left related material at the panel desk.

There was a question and answer period.

INDIAN BURIAL SITES

Commissioner Andrews opened this workshop by informing everyone that the MCIA has been working on burial legislation since 1975. She feels that if there is a law on the books, we shouldn't change it, we should make an amendment. She turned the workshop over to Al Talmage.

1. Talmage stated that one of her duties as State Archeologist is to study Indian sites in Massachusetts. The Native American did not write reports, they left things and it is fascinating to them, as archeologists, to find out how the people lived, what their habits were, etc. One of the earliest sites found was in Scituate, MA 7,000 BC.

She gave a run-down of several periods when people inhabited the area. This is what makes the job interesting to her she commented.

1. The first people after the glacial period were nomadic people. They used stone tools, the climate began to warm up, animals died off and became distinct.
2. Archaic Period (4,000 BC) - these people were extremely efficient, also nomadic, they hunted & fished.
3. 500 AD - these people practiced agriculture & horticulture, started to settle in the area, held seasonal gatherings. This is basically the lifestyle of the people the white man found here.

1. Talmage sited (5) different types of burial sites.

1. Single interment
2. Multiple interment
3. Secondary interment
4. Ossuary
5. Cremation

There is no pattern as to how people were buried. There were no locational factors as to where they were buried, and no records of these burials. She commented that when you find a burial site, it is difficult to tell if it is a Native American site. You can only tell if they were buried with artifacts. Otherwise the bones have to be examined. She explained that no archeologist is authorized to dig up an area. If anyone does, they are breaking the law.

There was a question and answer period.

Commissioner Averett concluded the workshops by asking the audience if they would like to have a meeting like this again. She suggested that tribal councils send in questions and will set up resource people to answer them. She strongly suggested that the meeting be early - (today we ran over-time and were hurried.)



The Commonwealth of Massachusetts

Commission on Indian Affairs

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HAEL S. DUKAKIS

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S. ANTHONY

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N. A. PETERS

ive Director

THURSDAY, DECEMBER 1, 1983

WORKSHOP

The workshop was held on the 21st floor of the J. W. McCormack Building. Approximately 20 people were in attendance and they included representatives from such groups as the Boston Indian Council, Inc.; Mashpee Wampanoag Indian Tribal Council, Inc.; New England Coastal Schaghticoke Association; Plimoth Plantation; and Executive Office of Communities and Development.

Commissioner Widdiss introduced Leon Braithwaite, Chairman of the Massachusetts Commission Against Discrimination, at 1:15 P.M. who opened the workshop with the topic of "How to file a Discrimination Complaint".

HOW TO FILE A DISCRIMINATION COMPLAINT

Mr. Braithwaite ran down the list of categories of discrimination that are covered by the law. They are: Employment, Public Accommodations, Public & Private Housing, Educational Institutions, and Credit. You must be a member of one of the protected classes in order to file a complaint. These classes are: race, color, religious creed, national origin, ancestry, sex, or age. You must file your complaint within (6) months of the actual date of the event.

At this point, Mr. Braithwaite introduced (3) of his staff members who came along as resource persons for specific areas. Robert Sanders, Housing; John Ramos, Employment; and Roger McLeod, A-95 Review.

Next week, Mr. Braithwaite continued, 'handicap' will also be added to the protected classes. Citizens who have a handicap and have been denied employment, housing, etc. will now have a place to go for relief.

He went on to explain how the complaint process works.

INTAKE. A MCAD investigator meets with you to draw up the complaint.

INVESTIGATION. The investigator sends a list of questions to the party you are charging with discrimination (respondent) and details areas for further investigation.

FACT FINDING CONFERENCE. You and the respondent may be called to meet with an impartial investigator to clarify the issues in the case and attempt to resolve the claim.

There is no resolution of the problem at this point, a formal hearing takes place before one of the MCAD Commissioners. The losing side has the right to appeal the decision to the full Commission or to the courts.

Another faction of the MCAD is A-95 Review. All monies that go from the Commonwealth to cities & towns (within the Commonwealth) are monitored. Cities & towns must comply with a certain amount of minority participation - they must make a good faith effort toward compliance, otherwise their funds will be held up.

At this point there was a question and answer period. Pamphlets were distributed from one faction of the agency.

INDIAN BURIAL SITES

John Peters, Executive Director of the Massachusetts Commission on Indian Affairs spoke about the (2) bills related to Indian burial sites in Massachusetts.

PROTECTING INDIAN BURIAL SITES. The Commission on Indian Affairs would be notified of any discovery of remains and the Indian people in the specific area of the disinterment would be involved.

COST OF RE-INTERMENT. This piece of legislation was filed because under existing laws that pay for reburial expenses for the Department of Welfare, no funds are provided for "old bones". There is a very good chance that these (2) bills will pass before the session closes on December 9th. The Governor's office and many Representatives have taken an interest in these bills and have been trying to get them passed.

Peters informed us that there is a disinterment almost every day. The process of determining whether the remains are positively Native American is a lengthy one.

Another bill, to protect the artifacts that are found with the remains, will be filed in the next session. Most of the artifacts end up in museums, or are sold world-wide to people who are on-site at the time of disinterment.

Commissioner Andrews said that there should be an Indian person hired within the State Archaeological Department to be on-site when excavation is taking place.

DATE ON THE DISCOVERY IN CHARLTON.

Peters informed us that this discovery is still under investigation. They are not positive, at this point, if the remains are Native American, or if they are even from this area. There is a discrepancy in the soil content that was found in the skull of the remains. The soil is not typical of the soil it was originally buried in. This investigation will take some time.

LAND CLAIMS

Sedtanamoogk gave a personal view of land claims. He stated that the opportunity to address the 'issues' never arose in the courts. He highlighted on:

1. Importance of sovereignty
2. The function of Tribal Councils
3. The courts narrow & restricted definition of TRIBE
4. Council of Elders and Council of Leaders

During a lull in the workshop, Mr. Peters gave a brief overview on:

1. Indian Scholarship Bills. One bill will include funds to cover books, room, board, and other related expenses. The other increases the number of waivers from 30 to 60. Both bills were filed in November for the new session in January 1984.
2. Indian Child Welfare Bill. This bill was pulled out of the Senate and into Third Reading. Hopefully it will be engrossed before the session closes.
3. Indian Housing Authorities Bill. This bill was refiled for the new session. Mr. Peters explained that it passes through the House every year but runs into problems after that.

The next workshop was tentatively scheduled for Saturday, April 21, 1984 at the Boston Indian Council. There will be a luncheon at noon and the workshop will begin at 1 P.M. We hope to have some cultural issues in this workshop.

Lis Young, EOCD, although she is fairly new with the department, made a few comments on the Indian Housing Authorities bill.

EMPLOYMENT

Mark Murphy, Director, State Office of Affirmative Action, introduced Marilyn Anderson-Scott, Director of the Governor's Community Service Office.

Mr. Murphy gave us an idea of how many Native Americans were employed in state government as of June 30, 1983 according to the head count in their annual report. He listed the employment categories. In total there were 77,967 state employees. 90%-White; 8%-Black; 2%-Hispanic; less than 1%-Asian; and 0.12% Native American. He impressed on us the need to get our constituents to send resume's to the Governor's Personnel Office.

Mr. Scott informed us of their Affirmative Action Training Workshop on Friday, Dec. 9th, from 10:00 A.M. - 4 P.M. at the Kennedy Memorial Library. Anyone is welcomed to participate. On the same day his Advisory Board members will be sworn in.

NATIVE AMERICAN EVENTS

Ms. Chase informed us not only is she the Director of the Governor's Community Service Office, she is also a member of the Governor's Senior Staff. Her function is to ensure that the Governor's presence is felt in a very diverse way throughout the state. Since January (since she has been a member) she knows of only one Native American event that was held at the State House. She would like to see more. She added that the events don't have to be cultural.



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N A. PETERS

tive Director

October 12, 1983

Morning:

ame is Hannah Averett, Chairperson of the Massachusetts Commission on Indian Affairs.
k you for this opportunity to address the Executive Office of Communities and Develop-
on our up-coming fiscal year 1985 budget.

Commission's function is absolutely critical in many areas, including attainment of
er education for Native Americans; legislation for the protection of sacred areas
for Indian housing; child welfare; legal assistance; employment; drug and alcohol
e; treaty rights; and a host of others. In addition to assisting Native Americans
heir dealings with the State, the Commission also enables the State, as well as the
ral Government, to deal more effectively with our constituents.

Commission on Indian Affairs is perhaps one of the smallest agencies in the Executive
ce of Communities and Development but it's role is very significant, therefore, it's
et should reflect it's importance. Presently, the Commission is funded for \$65,660
h includes three staff persons; travel funds for seven Commissioners and the three
f; office supplies; and printing expenses. Since the Commission cannot operate
istically on such a low budget and with only three staff members, our immediate and
ary concern is to acquire an additional \$30,000 to hire (2) staff persons for the
ce.

year, with the assistance of several legislators, we were able to acquire one additional employee. This was a beginning but in order to serve our constituency effectively, it is necessary to have at least one staff person to cover each area of concern. However, we realize that this task of increasing our staff will not happen overnight, therefore, at this time, we will propose an increase of only two additional staff members. They are:

RESEARCH ASSISTANT: This person will participate in researching state and federal legal functions; and treaties as related to Native Americans. This position is important because of the need to re-address some of the laws in Massachusetts pertaining to Native Americans that have not been enforced.

SENIOR INFORMATION OFFICER: This person will focus on legislation; employment; scholarships; and housing. This position is vital because an Indian Scholarship Program has been recently established within the Commission (by the Legislature) and we are in need of a person to concentrate on directing and monitoring this program. In addition, this person will create new legislation that will benefit the Native Americans in Massachusetts, refile past legislation, and seek support on our bills. Finally, he will assist our constituency in securing housing and employment which are two of the greatest needs of our people. An employment and a housing bank have already been established.

Finally, there is a need to acquire \$20,000 in contractual service funds. These funds are needed primarily to bring in legal counsel to provide legal aid to our constituency; are needed, to investigate illegal land transactions, and for technical assistance to tribal councils and Native American organizations.

I believe these are the most important items in the fiscal year 1985 budget request for this office. Again, thank you for this opportunity to address your department and I, on behalf of the Massachusetts Commission on Indian Affairs respectfully request that a budget of \$15,000 be appropriated this fiscal year as a sufficient amount to carry out the work of the Commission efficiently and effectively.



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A. PETERS

ve Director

October 12, 1983

. Chairman:

My name is John Peters, Executive Director of the Mass. Commission on Indian Affairs. I thank you for the opportunity to address this hearing relative to the fiscal year 1985 budget request.

It has been the desire of this Commission, from it's inception, to fulfill the legislative mandate which is to assist all Native Americans with problems common to them. Indian problems are unique and very complex and require special attention. Today, the Commission has a budget of \$65,660 which includes monies for (3) staff persons; travel expenses; office supplies; and equipment rental. These funds are not ample to even begin addressing our mandate. Additional staff is needed to begin long range planning of the Commission; to research federal and state laws pertaining to Native Americans; and to develop various programs for our people to help alleviate some of their problems. In addition, the Commission has filed several bills and each time a bill passes, a staff person is needed to implement the program. Presently, the Commission has filed the following bills: THE PROTECTION OF INDIAN BURIAL SITES and the REINTERMENT OF INDIAN REMAINS - this bill will provide a mechanism to protect Indian burial sites from being disturbed and to pay for the reinterment of any sites that have been accidentally disinterred. INDIAN CHILD WELFARE BILL which will protect foster and adopted children from being placed in non-Indian homes. INDIAN HOUSING

THORITIES BILL which will provide a land base to build housing for Native Americans; and finally, an amendment to our present INDIAN SCHOLARSHIP BILL to include funds for room and board. Two years ago the Indian Scholarship bill passed and to this day we do not have a staff person to direct and monitor it which is essential to the effectiveness of the program.

At this time I see an immediate need for the following staff persons:

A SENIOR INFORMATION OFFICER who will be responsible for creating new, and refiling past legislation in addition to monitoring the Indian Scholarship Program and assisting our constituency with housing and employment. The second position is a RESEARCH ASSISTANT who will be responsible for researching state and federal laws, and for investigating treaty rights.

Presently the Commission has two staff persons who carry out 90% of the case load of approximately 10,000 Native American residents in Massachusetts. Our third staff person (junior clerk) will not be hired until the personnel schedule has been released and advertising begins. However, this person will only be responsible for the clerical duties of the office. It is therefore necessary to hire atlease (2) staff persons so that we can begin to address portions of our mandate.

Our second major concern is to acquire contractual service funds to hire legal counsel to assist our people when needed. These funds would also be used to provide technical assistance to our (15) tribal councils and native american organizations.

What I have presented to you here are the major concerns of the Commission. I would appreciate your consideration of an adequate budget of atleast \$115,000 which would help us to meet some of the goals of, and the mission of the Commission. Thank you for your attention on this matter.



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Michael S. Dukakis

governor

Anthony S. Anthony

Secretary

William A. Peters

Executive Director

CERTIFICATION OF

NATIVE AMERICAN STATUS

NAME DATE OF BIRTH.

ADDRESS CITY. STATE.

HEIGHT WEIGHT. TRIBE

IS YOUR TRIBE FEDERALLY RECOGNIZED YES . . . NO . . . IF SO, BIA #

MATERNAL INFORMATION

MOTHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

GRANDMOTHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

GRANDFATHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

PATERNAL INFORMATION

FATHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

GRANDMOTHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

GRANDFATHER'S NAME

ADDRESS CITY STATE

TRIBE TRIBAL BAND #

PLEASE LIST AND ATTACH PERTINENT DOCUMENTATION: (e.g. Letter from your tribe
verifying your membership; tribal band card; etc.)

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APPLICANT'S SIGNATURE DATE

APPLICANT'S TELEPHONE NUMBER ()

APPROVED BY EXECUTIVE DIRECTOR _____

